

San Francisco EOIR Liaison Questions and Answers for April 15, 2008

1. Why did the security procedures for attorneys change? Why do respondents' attorneys with the building ID must wait in line and go through security at every entry on the 8th and 9th floors (even for filings and signing up for Master hearings) unlike Office of the Chief Counsel attorneys and interpreters? In addition to extreme inconvenience to respondents' attorneys, the new procedures give the improper appearance that OCC attorneys are treated differently by the Court and or even work for the Court. Finally, there has been occasion when certain attorneys are permitted to cut the line/not be screened if known by the security officers on duty. If the procedures do not change, can you please remind the security officers that all attorneys must be screened?

The HINES building ID was issued to attorneys to help expedite entry through the building lobby. The HINES ID does not expedite entry into EOIR space. Our security standards require that all persons entering EOIR court space be screened through the magnetometer/wanding procedure by a security officer, except those who have been exempted by the Court Administrator.

DHS attorneys are federal employees who have completed a thorough background and security check. Also, the Lionbridge interpreters complete a background and security check to work at the court. Therefore, the court exempts these two categories of persons from screening prior to entering into EOIR space. However, they must display a current agency ID card to the security officers upon entry. These changes were made to lessen the security screening burden and lines.

The Court Administrator was advised that certain attorneys who frequently appeared with the Court were being allowed by the security officers to bypass the line. She addressed this issue with the officers, and this practice was immediately stopped. It should not happen again.

2. When making changes or updates to a pending application, is it best to re-file a new application with the updated/correct information or simply file an updates/correction sheet?

If there are more than one or two changes, we encourage the submission of a corrected application with the changes clearly marked as such. In any event, the changes should be submitted in writing by one of the two means you mention, rather than proffered orally in court.

Chapter 3.1(b)(iii)(B) of the Immigration Court Practice Manual contains instructions on how to amend affirmative asylum applications that are pending with the court.

3. Does EOIR Plan to require the Office of the Chief Counsel or USCIS to update the biometrics form since the information on the current form used is outdated and incorrect? For instance, the current form says that the biometrics fee is \$70, rather than

the mandatory \$80. This error has caused confusion and filings to be returned due to improper fee paid.

EOIR is communicating this to USCIS, and we encourage AILA to raise the issue directly with USCIS as well. We will replace all DHS biometrics instructions in the courtrooms if and when we receive them from DHS.

4. Since April 2007, the Department of Homeland Security has had the authority to issue duress waivers (see below link) in cases triggering the material support bar because a person provided some sort of assistance (whether voluntary or not) to an undesignated (Tier 3) terrorist organization. To my knowledge, no duress waivers have been issued for people subject to the bar in removal proceedings because no method exists to request a material support waiver in removal proceedings. Is there discussion about how a procedure to apply for material support waivers will be implemented for people in removal proceedings? If so, what is the status?

<http://www.aila.org/content/default.aspx?docid=22243>

This question involves nationwide policy and is therefore more appropriately addressed through AILA's national liaison with EOIR. Moreover, we understand that a similar question was included in the recent EOIR/AILA Spring Liaison Meeting Q&As. These Q&As will soon be posted on EOIR's website.

5. We have heard that Judge Proctor will be retiring this spring. What will happen to his unfinished caseload? Will the cases be rescheduled or is there a Judge that will take over his calendar as it currently stands?

Judge Proctor retired effective March 31, 2008. A new judge to replace him has been selected and is currently in the background investigation process. We currently anticipate the new IJ to take the bench sometime this fall once the background check and new judge training is complete. Since the candidate has not yet completed the background investigation process, EOIR is not able to disclose the candidate's name. Once the candidate has cleared the process, a public announcement will be made. This new judge will take over Judge Proctor's docket. The court is currently in the process of resetting all of Judge Proctor's cases scheduled between April and September 2008 to new dates on the new judge's docket.

6. What is the current status for Judge Phillips former caseload? Her cases continue to be rescheduled by the Court. Is there a Judge that will be taking over her caseload soon?

A new judge, Jeffrey J. Bernstein, has been selected and will take the bench starting Monday, May 5, 2008. All of Judge Phillips's cases have been moved to Judge Bernstein's docket and new notices have been sent. If you have any questions about a case formerly scheduled before Judge Phillips, please call Judge Bernstein's legal assistant, Alice Gumar, at extension 247 or Michael Clay at extension 245.